

REMARKS

Claims 1-38 are pending in this application. Claim 13 is withdrawn from consideration. Claims 1-12 and 14-38 are currently amended. None of the claims are allowed. Claims 1, 12 and 24 are currently amended. Claims 8, 20 and 32 are now cancelled. Reconsideration and further examination is requested.

Claims 1-12 and 14-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Weldon. Claim 1 has been amended to recite the limitations of claim 8, i.e., causing replacement services to be provided by the network in response to breach of the SLA, and without human intervention. The Office asserts that this feature is taught by Weldon at column 11, lines 21-42. Applicant respectfully traverses. The cited passage specifically teaches that the action taken is “dispatching a trouble-shooting technician to identify a source of the problem or adjusting software settable parameters in the probing router, so as to be less stringent on the service level requirements imposed on the network.”¹ Dispatching a trouble-shooting technician to identify the source of the problem is a slow, manual response that does not even include replacement services. As described in the Specification at page 12, lines 10-11, ASON can provide practically any communication service that has traditionally been performed manually. For applications where restoration time is critical, dispatching a technician to repair the problem is not a practical solution. Claim 1 as amended therefore distinguishes Weldon by reciting “to provide replacement services without manual intervention.”² Withdrawal of the rejection of claim 1 is therefore requested.

¹ Column 11, lines 34-38

² Note also that unlike protection switching the claimed limitation is in response to SLA breach

Claims 2-7 and 9-11 are dependent claims which further distinguish the invention, and which are allowable for the same reasons as claim 1. For example, claim 3 recites that the optical service logic is operably coupled to monitor and analyze a connection in real-time for determining SLA compliance. The Office asserts that this feature is taught by Weldon at column 4, lines 16-24. However, that passage fails to suggest anything other than collecting statistics at rates consistent with the SLA. Further, there would be no justification for monitoring and analyzing in real time where the response is to dispatch a field technician because the field technician could require orders of magnitude more time to respond than even a non-real-time automated system.

Claims 12 and 24 are rejected on the same grounds as claim 1. Since claims 12 and 24 have been amended to recite distinguishing limitations which correspond to the amendment of claim 1, the same arguments presented above apply to claims 12 and 24, and their dependent claims. Claim 35 already recited a similar limitation: "interacting with a service provider via the peer-to-peer interface to negotiate "replacement" services for a breach of the SLA; interacting with various network elements to rectify a breach of the SLA." Withdrawal of the rejections of claims 12 and 14-38 is therefore requested.

The Office provided an additional reference (same assignee as this application) which is cited as being of concern to the Examiner. Since the reference appears to be an unpublished provisional patent application, it does not qualify as prior art. Further, the document describes network management from the Carrier's perspective (See Abstract), rather than from the customer's perspective. Specifically, the teaching is focused on avoiding SLA breach, not identifying SLA breach and signaling to the Carrier's network to obtain replacement services. Therefore, the reference should not be of concern to the Examiner.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 978-264-6664 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

June 21, 2007
Date

/Holmes W. Anderson/
Holmes W. Anderson, Reg. No. 37272
Attorney/Agent for Applicant(s)
McGuinness & Manaras LLP
125 Nagog Park
Acton, MA 01720
(978) 264-6664

Docket No. 120-178
Dd: 6/23/2007